De Facto and De Jure Censorship. Why we need to be concerned about both!

Why we need to be concerned about both. By Chris Ferguson. Reposted with full permission.

ROSEBUD AND THE PRINCE
Grimms Fairy Tales
The prince kissed the slumbering rosebud on the mouth whereupon she woke up and . . .
DOG'N'CAT
... SHOULD HAVE YELLED "I WAS SLEEPING AND DIDN'T CONSENT TO YOUR KISS, YOU ENTITLED RAPIST!"
ALL THE CLASSIC FAIRY TALES ARE PROMOTING RAPE CULTURE. THIS HAS TO CHANGE.
I HAVE TO WRITE TO THE PUBLISHER!
AT THE PUBLISHERS...
GRIMM's
HOW CAN WE MAKE THIS CONFORM WITH CURRENT VALUES OF SOCIAL JUSTICE?
GRIMM's
...THE PRINCE WANTED TO KISS ROSEBUD, BUT THEN STOPPED AS HE RECOGNISED THE TOXICITY OF HIS MASCULINITY. ASHAMED, HE LET HER SLEEP AND MARRIED A PIERCED FAT ACCEPTANCE ACTIVIST WITH PURPLE HAIR AND NEVER DESIRED A WOMAN AGAIN. EVER.
GRIMM's
SOUNDS REASONABLE. WE'LL GO WITH IT!
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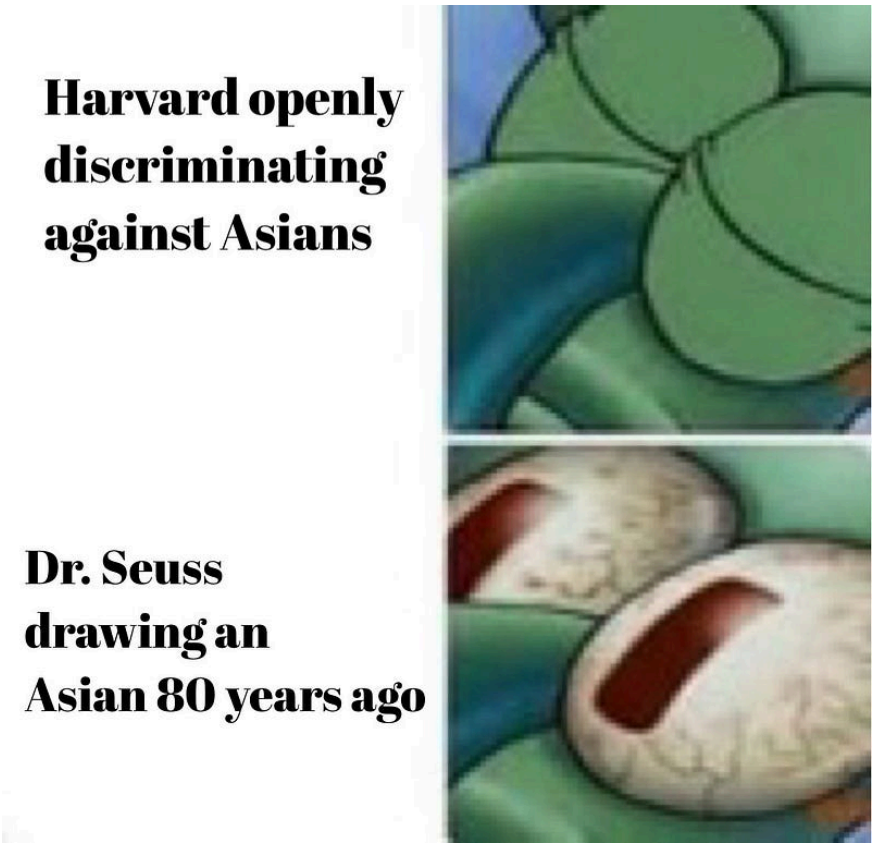

[This article, written by Chris Ferguson PhD. of Florida (stetson university i believe) and published on the AERO website, seems to have bene made private. Or that aero is defunct. I am boldly going to make a copy here and make it readily available for all to read because it is too dear to keep behind a pay wall. This was done with his permission]

The last few weeks have seen dustups over the decision by the foundation overseeing Dr. Seuss's works (i.e. Dr. Seuss Enterprises) to cease publication of six books deemed problematic, as well as claims that the old Pepé Le Pew cartoon leads to rape culture. These recent incidents add to what appears to be an increasing effort to restrict the availability of controversial books, TV shows and other fictional media, as well as access to social media. These come mostly from non-governmental producers and distributors of such content, often in the context of campaigns of moral outrage playing out on social media. Do these steps amount to censorships or bannings? This question has caused considerable debate and confusion, but it helps us understand what we mean by censorship. It is not uncommon for

people to claim, for instance, that Target banning sales of Abigail Shrier's book Irreversible Damage or the Seuss foundation's decision no longer to sell six of his books are basically nothing to worry about, because these decisions were made by private entities, not by government. We are also assured that these decisions don't really amount to censorship because the materials are still available if people really wish to find them.

[Editors note, If that really were the case they wouldn't need to make this argument to defend censorship and something they know is very wrong.]

These arguments limit our understanding of censorship to what might be called de jure censorship—censorship imposed by law. The First Amendment of the US Constitution is designed to limit de jure censorship, preventing the government from interfering in speech, protest, religious expression or the production of news, fiction, and art in general. From the perspective of social science, I have some experience with de jure censorship efforts—in particular, efforts to by states and municipalities to restrict the sale of violent videogames to minors. The US Supreme Court has ruled such efforts unconstitutional. This was the right judgement, as there was no data to support the claim that restricting access to violent video games would reduce youth aggression. There are narrow and largely uncontroversial exceptions, from slander and libel through to child pornography, but most of the public opposes de jure censorship beyond these areas.

However, the government is not the only means by which censorship occurs. My concern here, related to these recent culture war battles, is de facto censorship: censorship that exists in practical reality, even if it is not directly enforced by law. I argue that, when distributors make material unavailable for sale, they engage in de facto censorship, stepping in as non-governmental regulatory agents to make speech unavailable to those who might otherwise wish to make an informed decision to consume it. I think we can say that, if powerful entities, whether they be publishers, distributors, tech companies or other organisations, make decisions that remove media from availability for consumption, this clearly counts as censorship. The more interesting question is how to balance the

rights of media companies to control media against the right of the public to consume it—particularly when these decisions are made in response to moral advocacy campaigns, as opposed to, say, poor sales. (One of the arguments against the six Dr. Seuss books was that they sold less well than his other books—though I suspect most authors would kill to have the sales figures of any Dr. Seuss book.)

The somewhat blithe argument that consumers can access unpublished works easily if they are so inclined is a little facile, and perhaps the easiest to dispense with. The Dr. Seuss episode puts that argument to the torch, since eBay moved quickly to stop person-to-person sales of the books on its platform (though they seem to have been restored, following criticism). Bannings that follow a moral outcry can potentially create a kind of cascade, as a succession of platforms fall like dominoes. Usually, it takes a public protest in the opposing direction to bring a halt to this (as appears to have happened in not only in the case of eBay, but also Target, which reversed a decision to ban Abigail Shrier's book from its website). Absent such pushback, advocates of censorship would almost certainly follow their argument as far as they could, pressing for material to be removed from any available outlet.

A more interesting question is whether distributors and producers have any moral obligation to continue making potentially offensive material widely available despite the outcry from some portion of the public (often, in practice, a tiny minority on Twitter). We can stipulate upfront that private entities have the legal right to do whatever they wish (indeed, to ask the government to abolish this right would itself be de jure censorship, which would almost always be worse). However, it is my view that, in most cases, those who decide to take on the responsibility of creating, producing, and distributing media in any form have a moral obligation to resist censorship in all forms—and this includes guarding against their own impulse to allow de facto censorship through the temptation to unpublish controversial works of their own.

Dr. Seuss Enterprises, for instance, rather than halt all publication of the books, could have divested itself of copyright in them, releasing them into the public domain. By doing so, they could have stated clearly that they wished to have no further relationship with the

books, while still allowing the books to be available to any who wished to access them (indeed, they could then be made available for free). Many highly controversial books, including Mein Kampf, exist in this basic state. Alternatively, Dr. Seuss Enterprises could have commissioned new editions of the books with the offending pictures replaced with images more in line with current standards. Either of these approaches would have made the clear statement that the foundation could no longer stand behind the offending pictures, but without preventing public access to the books themselves. Then again, as Matt Yglesias has pointed out, the foundation has undoubtedly reaped healthy profits from the controversy, as sales of Dr. Seuss's other books have soared.

In short, media producers and distributors should be expected to adhere to an ethical system supporting broad public access to even controversial books and other media. This does not mean that these producers shouldn't be free to disavow certain works, thereby putting them into the public domain. But prohibiting sales is a bad decision. It doesn't serve the common good, and should always be discouraged.

A more difficult question is whether a creator or author's wishes to ban their own work should be honoured. This is difficult because it pits the creator's speech rights against the public right of access to speech. Neither should be taken lightly. Here, though, my own personal view leans towards the public good surpassing that of the individual creator. Until a work is released, it doesn't occupy public space, and the rights of its creator—as well as those of the publisher or distributor—don't come into any meaningful conflict with those of the public. But once a work is released, that calculus changes. At that juncture, the decision to retract a work has several ramifications. First, the decision might be made for the wrong reason (more on this in a moment). Second, it might incentivise future moral crusades that lead to further bannings that other authors oppose, a precedent having been established for authors to acquiesce to claims of harm. Third, it can cause a chilling effect, as authors and artists become frightened to produce anything edgy to which one group or another might claim to take offence.

A few examples will sharpen these questions. In the 1990s, Stephen King allowed his novella Rage to fall out of print, concerned that it might be have been linked to school shootings that had occurred. Later research would establish that fictional media, whether books or videogames, played no role in the development of rampage shooters. Put simply, King fell victim to a moral panic and made a mistake—albeit a good-faith mistake, made with the best information available at the time. This mistake not only made it difficult to access the book, but also contributed to a false belief at the time linking fictional media to violence—a belief that risked encouraging de jure censorship on the part of the government. There are other examples of authors who have retracted or substantially cut books, and of agents dropping authors following moralistic outcries. Each time this tendency is reinforced, it makes it more difficult for future authors to resist such moral crusades.

The other famous example—an uncomfortable one, as it cuts across even my line of argument—is that of Franz Kafka. Famously, most of Kafka's work was published after his death, and against his explicit written instructions to have the material burned. This is a clear case of a writer's desires being violated, but it is also hard to disagree that the world is a better place as a result. As a writer myself, I believe authors should profit from their works during their lifetimes. They should also be free to disavow their work, should they so choose. But unpublish it? I'm not so sure. Just as with science, I have the sense that creation in this space entails a certain sacrifice to the public, and that that may be something creators should make peace with as an ethical matter. Should I have the right to unpublish my novel if it becomes uncomfortable for me in the future? Honestly, I should have the right to publicly disavow it, but not to unpublish it.

There are probably some legislative fixes that may resolve some of these issues. Copyright is extended absurdly beyond the death of the creator in the United States, for instance. But, while we generally cannot rely on de jure solutions to de facto censorship, that doesn't mean de facto censorship isn't a real problem in its own right that we need to address as a culture. Quite the contrary: I suspect that, as producers and distributors including big tech companies become increasingly monopolistic, de facto censorship by private entities

will become one of the more formidable cultural challenges of the twenty-first century.

{And the people that are for censorship. I cannot understand how they are saying their moral and value judgments are gospel. Furthermore, **Cultivation Theory is downright bunk! The entire charge of words cause harm is centuries long and simply sustains itself using different conceits. It is past time to end it! It is far, far passed the time to treat women, children, or whomever you're trying to "protect" from images and words. I for one am offended at the idea of speech control as it not only limits a natural right, not only is the idea patronizing and keeps us infantilized, but still continues to other us. With only certain people and ideas being protected, it is no wonder that resentment grows. Even from the resent ment of the marginalized people that the would be self apointed censor tries to patornize and "protect" If the past 13 years, now going on 16 years, are anything to go by, what one suppress only grows worse be it in an individual mind, sub cultures, or on the scope of a whole society. This, of course, leading to no shortage of danger and losing what is most precious only for the worldly demons of project 2025 and any other extreme to come rolling in to power. That the main caller for violence and harm are the main callers of censorship.**

Censorship will always expand and we've seen that done with people who have been dishonest from the start.

To quote the show "Duckman": Words can hurt, even alienate but the risk is so much better than the fascist alternatives }

Duckman Comedy Rant
Ultraslainmonkey2